

§ 268.405 Decisions on review.

(a) The Commission's Office of Federal Operations shall issue a written decision (the EEOC decision) setting forth its reasons for the decision. The Commission shall dismiss requests for review in accordance with §§ 268.206, 268.403(c) and 268.507 of this part. The EEOC decision shall be based on the preponderance of the evidence. If the EEOC decision contains a finding of discrimination, appropriate remedy(ies) shall be included and, where appropriate, the entitlement to interest, attorney's fees or costs shall be indicated. The EEOC decision shall reflect the date of its issuance, inform the complainant of his or her civil action rights, and be transmitted to the complainant and to the Board by certified mail, return receipt requested.

(b) The EEOC decision issued under paragraph (a) of this section is final, subject to paragraph (c) of this section, within the meaning of § 268.406(d) of this part unless:

(1) Either party files a timely request for reconsideration pursuant to § 268.406 of this part; or

(2) The Commission on its own motion reconsiders the case.

(c) The Board, within 30 days of receiving the EEOC decision, shall issue a final decision pursuant to § 268.209 of this part based upon the EEOC decision.

§ 268.406 Reconsideration.

(a) Within a reasonable period of time, the Commission may, in its discretion, reconsider an EEOC decision issued under § 268.405(a) of this part, notwithstanding any other provisions of this part.

(b) A party may request reconsideration of an EEOC decision issued under § 268.405(a) of this part provided that such request is made within 30 days of receipt of an EEOC decision or within 20 days of receipt of another party's timely request for reconsideration. Such request, along with any supporting statement or brief, shall be submitted to the Commission's Office of Review and Appeals, and to all parties with proof of such submission. All other parties shall have 20 days from the date of service in which to submit to all other parties, with proof of sub-

mission, any statement or brief in opposition to the request.

(c) The request for reconsideration or the statement or brief in support of the request shall contain arguments or evidence which tend to establish that:

(1) New and material evidence is available that was not readily available when the EEOC decision was issued;

(2) The EEOC decision involved an erroneous interpretation of law, regulation or material fact, or misapplication of established policy; or

(3) The EEOC decision is of such exceptional nature as to have substantial precedential implications.

(d) A decision on a request for reconsideration by either party is final and there shall be no further right by either party to request reconsideration of an EEOC decision.

Subpart E—Remedies, Enforcement and Civil Actions

§ 268.501 Remedies and relief.

(a) *General procedures.* When the Board finds discrimination when issuing its final decision pursuant to § 268.209 of this part, the Board shall consider the following elements in providing full relief to complainants:

(1) Notification to all employees of the Board of their right to be free of unlawful discrimination and assurance that the particular types of discrimination found will not recur;

(2) Commitment that corrective, curative or preventive action will be taken, or measures adopted, to ensure that violations of law and this part similar to those found unlawful will not recur;

(3) An unconditional offer to each identified victim of discrimination of placement in the position the person would have occupied but for the discrimination suffered by that person, or a substantially equivalent position;

(4) Payment to each identified victim of discrimination on a make whole basis for any loss of earnings the person may have suffered as a result of the discrimination; and

(5) Commitment that the Board shall cease from engaging in the specific unlawful employment practice found in the case.